

# EXHIBIT A

# Deep State Crony Heinousness and China: Crypto-Currency Edition

[Seton Motley](#) Apr 21, 2021 9:01 AM ET

Diary



(AP Photo/Ahn Young-joon, File)

Many of the Deep State bureaucrats with which We the People are afflicted? Go in and out of government – via a metaphorical revolving door to and from many crony parts of the private sector.

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People leave private crony sector gigs – for government gigs overseeing the sectors they just left. And later revolve back to the sectors they were just overseeing. Where they receive many accolades – and LOTS of money. Lather, rinse, repeat....

And perhaps the largest of these many private crony sectors – is Wall Street.

Wall Street is famous for destroying millions of US businesses and hundreds of millions of US lives – by shamelessly outsourcing much of our economy to Communist China.

Behold a shameless cryptocurrency example thereof.

First: We should define a couple of monetary terms.

Currency: "Circulation as a medium of exchange."

Security: "An instrument of investment in the form of a document (such as a stock certificate or bond) providing evidence of its ownership."

Cryptocurrencies are...currencies – and quite obviously not securities. They are money – not stocks. Which means the Securities and Exchange Commission (SEC) – can not regulate them.

July 2018: [SEC Chairman Jay Clayton: Cryptocurrencies Like Bitcoin Are Not Securities](#)

But if you're a mite confused by the government and its crypto-pronouncements – it's only because you've been paying attention.

June 2018: [SEC: Some Crypto Coins Are Securities:](#)

"The Securities and Exchange Commission's (SEC) leading authority on Bitcoin, cryptocurrency and initial coin offerings (ICOs) has ruled that some well-known cryptocurrencies like Bitcoin and Ethereum are not securities. However, the coins offered during initial coin offerings very likely are entirely — or mostly — securities...."

The SECs "leading authority on Bitcoin, cryptocurrency and initial coin offerings (ICOs)" who issued this muddled mess? Clayton henchman William Hinman – the SECs Director of Corporate Finance.

But as you will see, there was a method to Clayton and Hinman's muddled-ness.

These SEC crypto-classifications are *muy importante*. A "currency" designation means less regulation – and more

freedom to do crypto-business. A "security" designation means MUCH MORE regulation – which is awful for crypto-business.

So this was a really bad deal....

### [SEC Charges Ripple and Two Executives with Conducting \\$1.3 Billion Unregistered Securities Offering:](#)

"The complaint alleges that the defendants failed to register their offers and sales of XRP (their cryptocurrency) or satisfy any exemption from registration, in violation of the registration provisions of the federal securities laws."

There's a reason US-based Ripple didn't "register their offers and sales of XRP." Because XRP is a currency – not a security. So they under no obligation to register with the SEC.

In fact, for clarification's sake Ripple had for years been begging the Clayton-Hinman SEC to define XRP as either a currency or a security. Crypto trading platforms had also [asked](#) for a ruling on XRP.

In January 2020, the Clayton-Hinman SEC was STILL futzing around. Commodity Futures Trading Commission Chairman Heath Tarbert [said at that time](#) "It's unclear. Stay tuned. We're working closely with the SEC to figure out what falls

Clayton and Hinman had already definitively stated Bitcoin and Ether were not securities. But never provided any such clarity for or about XRP.

Until the Clayton-Hinman SECs ridiculous December 2020 case. Which ridiculously, retroactively declared XRP a security – going all the way back to its 2013 creation. And thereby declaring nearly all things XRP – retroactively illegal.

Which was, of course, egregiously damaging to Ripple and XRP – and its millions of retail investors. The XRP price tanked. Trading exchanges delisted or suspended trading – for fear of the SEC lawsuit asserting all XRP sales were and are illegal. This locked up the holdings of everyone – including XRP's retail investors. Who were trying to cut their government-imposed losses in the midst of a panic.

The Clayton-Hinman SECs case makes no legal sense. But it makes quite obvious crony sense.

Clayton filed the suit on December 22 – HIS LAST DAY AT THE COMMISSION. Guess where he landed his next gig? If you guessed Wall Street – congratulations. Oh – and guess on what he's working?

[Ex-SEC Chairman Clayton to Advise Brevan-Backed Firm on Crypto:](#)

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"One River Asset Management, a \$2.5 billion firm whose cryptocurrency funds are backed by hedge fund titan Alan Howard, brought on former Securities and Exchange Commission Chairman Jay Clayton as an adviser....

"(In) the fourth quarter of 2020,... (One River founder and Chief Executive Officer Eric) Peters started a digital asset subsidiary and raised funds...to invest in Bitcoin and Ether....

"Under Clayton, who left the SEC in December..., regulators determined Bitcoin and Ether weren't securities, removing an overhang that could have impeded trading and acceptance of those tokens."

Get that? In October 2020, One River starts investing in Bitcoin and Ether. In December 2020, Clayton slams Bitcoin-Ether competitor XRP with a ridiculous government suit. In March 2021, One River hires Clayton.

And Hinman? Hinman was paid \$1.6 million per year by the Simpson Thatcher law firm – [WHILE WORKING AT THE SEC](#). Simpson Thatcher also holds huge interests in Chinese cryptocurrencies. The firm is a [member](#) of the Ethereum Enterprise Alliance (i.e. Ether cryptocurrency). And the firm [handled](#) the \$100 million IPO of Chinese crypto mining equipment giant Canaan.

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What follows is the rather obnoxious timeline of Clayton and Hinman's revolving door Chinese cronyism. Their business interests – which bookend their 2017-2020 tenure at the SEC – demonstrate a CLEAR conflict of interest.

2014: Clayton and Hinman play pivotal roles in the Initial Public Offering (IPO) of Chinese tech giant Alibaba – which owns the payments platform Alipay (a competitor to Ripple). This transaction earned them millions in fees from China. Hinman pocketed \$15 million on the deal via his law firm – [while working at the SEC](#).

2016: Cryptocurrency mining farms controlled by China [take control of the hashrate of Bitcoin](#). [It remains in control to this day](#).

([Hashrate](#): "The speed at which a computer is completing an operation in the Bitcoin code.")

2017: [Clayton and Hinman are appointed to the SEC](#).

Hinman "leaves" his law firm – but again, continues getting paid \$1.6 million per year by them.

2018: [Clayton tells CNBC](#) that Bitcoin is not a security. Which means less regulation of Bitcoin. Its price soars.

2018: [Hinman gives a widely covered speech](#) which laid out how Ether is not a security. Which means less regulation of Ether. Great news for Ether.



## [China Creates Its Own Digital Currency, a First for Major Economy](#)

Excellent news. Here's some more....

### [The SEC Swats Cryptocurrency Flies While The Chinese Government Takes The Farm:](#)

"The leading American innovators in blockchain solutions are on the verge of leaving the US in frustration. Why? Because Washington has failed to develop a clear regulatory framework that would keep them in the US and ensure American leadership."

Well "Washington has failed to develop a clear regulatory framework" isn't entirely accurate.

Clayton-Hinman's SEC was quite clear that Chinese-backed Bitcoin and Ether were nigh regulation-free.

The only cryptocurrency they slammed with massive regulation – was US-based Ripple's XRP.

Now that you know about all the Chinese money pouring all over – you understand why this is how it is.

# In The Ripple Case, The SEC Is Now On Trial – And Knows It

[Roslyn Layton](#) 09:46am EDT

Apr 8, 2021, 1234,534 views



The ripple effect of the SEC's botched approach to cryptocurrency animates the court case against ... [+]

LightRocket via Getty Images

Some agency chairs find an ambiguous statute hard to resist. They overinterpret their authority to regulate, and Congress too often goes along. The backstop of this excess is the courts, provided that the aggrieved have the wherewithal to defend themselves against the gargantuan administrative state. This familiar story is playing out in the [U.S. Securities and Exchange](#)

[Commission's \(SEC\) lawsuit against cryptocurrency innovator Ripple](#), but the buck stops with Magistrate Judge Sarah Netburn whose discovery hearing in U.S. District Court for the Southern District of New York on Tuesday exposed the SEC's unfounded and flawed arguments and some inconvenient truths for former SEC Chair Jay Clayton and former SEC Corporation Finance Division head William Hinman.

The hearing showed that the case the San Francisco fintech was based on an illogical premise. It alleged that XRP, the digital currency that Ripple uses for cross-border payments, has been an unregistered security since 2013 and that the SEC was just getting around to saying so on the last day of Clayton's tenure last December. With this late in the game regulatory determination, the SEC now deems that every Ripple sale for seven years was an illegal securities trade. And that Ripple, its two top executives named in the suit, along with millions of retail holders, should have known this all along, even though the agency never did. Due process and fair notice were thrown out the window to get the case across the transom on the day that Clayton walked out the door.

The hearing detailed the many vague, contradictory statements regulators made on cryptocurrency over the years. In 2018 Clayton [told CNBC](#) that bitcoin is not a security, and Hinman gave a [widely covered speech](#) which laid out how ether was not a security, despite debuting in an [initial coin offering \(ICO\) in 2014](#). With XRP they said its status had "not been determined." Trading platforms [asked](#) the SEC if XRP was a security before listing the token, and the agency refused to clarify. When asked whether XRP was a security, the then-chairman of the Commodity Futures Trading Commission Heath Tarbert [in a 2020 interview](#) declared, "It's unclear. Stay tuned. We're working closely with the SEC to figure out what falls into what box."

If these regulators were honest, they would admit that nothing in the 1933 Securities Act refers to cryptocurrency and then would request Congress to clarify the statute. Instead, the SEC made an unfounded determination with no warning or process.

Back to Judge Netburn's courtroom. Ripple requested the internal documentation to explain how and why the SEC arrived at their pronouncements as well as silence on these various coins. The SEC responded that nothing that was ever said by Clayton, Hinman or any SEC official about bitcoin or ether was that was an "official determination" on whether they are securities. It appears that Netburn is not buying the SEC's argument that their many statements were not material. In a March 22 hearing, she [told](#) the SEC her understanding of XRP: ". . . not only does it have a currency value but it has a utility, and that utility distinguishes it from bitcoin and ether." This rejects the SEC's story that XRP has never had utility.

Netburn ordered the SEC to produce all communications related to XRP, bitcoin, and ether where a third party was involved, and any formal internal documents "expressing the agency's interpretation or views" on cryptocurrency, and to deliver them to Ripple. She granted most of Ripple's motion, which means that the discovery could be a treasure trove of embarrassing information for the SEC. This could mean game over for the SEC's case against Ripple and more largely, a serious blow to the agency's credibility. Other defendants will cite the SEC's arbitrary and capricious nature.

These disclosures could bring new headaches to scandal-plagued Apollo Capital Management which [Clayton](#) joined upon leaving the SEC, ostensibly to clean up the mess left by founder [Leon Black](#) and his links to Jeffrey Epstein. The timing of the lawsuit on Clayton's last day and his [subsequent](#)

[hiring](#) by a crypto-focused hedge fund are very curious coincidences.

Conflict of interest concerns could also intensify for Hinman, now back at his old firm Simpson Thacher, which paid him a [\\$1.6 million annual pension](#) while he worked at the SEC. Hinman's influence to the determination that ether is not a security keeps the SEC's regulatory paws off Ethereum, the blockchain platform which Simpson Thacher supports as a member of the [Ethereum Enterprise Alliance](#). Simpson Thatcher also [handled the \\$100 million IPO of Canaan](#), the Chinese maker of machines used to mine cryptocurrency. Netburn's order should bring much-needed transparency to the case.

Gary Gensler, slated to be confirmed as the next SEC chairman, will take the helm when [China is racing ahead with a closed-ledger digital currency](#) threatening to [unseat the dollar](#) a leading medium of global exchange. It was extremely shortsighted of the SEC to handicap Ripple at a time when the US needs every American crypto leader on board to compete with China. Moreover, the case seems to reveal that former SEC leaders put their personal gain above the well-being of the nation. When the agency repeatedly claims in filings and hearings that "the SEC is not on trial here", it is almost certain that the opposite is true.

# The Right Regulatory Framework For Cryptocurrencies

Mar 18, 2021, 10:32 am

The cryptocurrency boom has proven to be more lucrative for its early investors than practically anything else since the of the late 90s. However, there is no guarantee that cryptocurrencies will remain in vogue, and actions by regulators will largely determine whether they continue gaining in value or end up being little more than a way for people to conduct illicit transactions. How—and who—regulates this relatively new and rapidly evolving form of currency to ensure robust consumer protections is vitally important.

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## A Cautionary Tale Of William Hinman



The case of William Hinman provides a cautionary tale.

Hinman left one of the nation's top tech law firms in 2017 to take the helm at the Securities Exchange Commission's , where he won accolades for introducing policies intended to protect investors in an industry regarded as a kind of Wild West.

## Exclusive: Dan Loeb's Two New Stock Picks [Q1 Letter]

**ValueWalk**

"What is incomprehensible is why Intercept would choose to go into the euphemistically named "merchant processing business" when in fact a substantial majority of the revenues of this business were derived from processing charges for adult pornography sites on the internet..."

"The conference call debacle pales in comparison to what I witnessed last summer when I attended the U. S. Open tennis final. You can only imagine my consternation when I looked around the stadium and saw."



Third Point's Dan Loeb discusses their new positions in a letter to investor reviewed by ValueWalk. Stay tuned for more coverage. Loeb notes some new purchases as follows: Third Point's investment in Grab is an excellent example of our ability to "lifecycle invest" by being a thought and financial partner from growth capital stages to

But from his perch, he also appears to have weighed in on issues involving the interests of his old firm – – whose clients include some of the biggest players in the cryptocurrency marketplace and some with ties to .

Hinman's appointment has raised conflict-of-interest questions with some people in the industry. For starters, he received an while at the SEC, vastly larger than his SEC salary.

What's more, after stepping down from his SEC post late last year Hinman to his previous employer, another example of a revolving door between government and private industry.

To be sure, there appears to be nothing illegal about taking his pension while at the SEC, but a former SEC ethics lawyer told ."

## **The Global Race For Crypto Dominance**



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To appreciate why this matters, it's critical to first understand the global race for crypto dominance. While Bitcoin's recently topped \$1 trillion, a plethora of other digital currencies are competing in the marketplace as well. China recently a digital yuan – the eCNY--that is being used in retail transactions in major Chinese cities, and the Federal Reserve is now beginning to rolling out a digital currency of its own at some point.

China is clearly leading in mining, mining hardware production, and strategic priority. Roughly 2/3 of the Bitcoin are being executed in China, which means China has twice as much capacity to mine new Bitcoins as the rest of the world combined. This year, approximately 328,000 bitcoins will be mined, worth roughly \$17 billion at today's prices. As there are over 60 cryptocurrencies worth in excess of \$1 billion, there is competition for mining attention, and China is certainly making Bitcoin a strategic priority.

A global cryptocurrency market that results in China simultaneously being the *de facto* regulator and a main competitor would be a potential disaster for the U.S. To prevent this, the US must ensure that we have appropriate regulatory guardrails so that American can prosper and not be vulnerable to the machinations of the Chinese or any other big player with dubious motives.

In the absence of federal leadership, New York – as the

financial center of the world – is trying to find the right regulatory framework for cryptocurrencies. Two years ago, the Empire State created a [crypto taskforce](#) to determine how best to regulate, utilize, and define cryptocurrencies, with special attention to the cost of mining cryptocurrencies and [tax collection](#).

But reactions to New York's efforts [have been mixed](#): while some supporters welcome the transparent, rigorous framework, critics complain that its proposed regulations would be too severe and might make it impossible for U.S.-based cryptocurrencies to compete globally. And a sub-national regulatory regime for crypto-currency makes little sense: several New York--based crypto startups reacted to the new rules there by merely [decamping](#) to locales with more amenable regulations like neighboring New Jersey and Connecticut.

This sub-national patchwork of regulations is-- unfortunately-- symptomatic of the current patchwork of policies that have failed to provide the nascent technology with the regulatory umbrella it needs. Which is why some experts believe the federal government should take a more active role in this industry.

Hinman played a significant role in establishing regulations for [digital currency](#) while at the SEC. For example, in 2018 he proposed that the SEC take into account the level of

decentralization of a digital currency before classifying it a security at a time when the agency was considering classifying most digital currencies [as securities](#).

His time at the SEC also coincided with his former law firm's effort to lead a [\\$100 million IPO](#) of Chinese-based crypto-miner Canaan Inc, the world's second-largest maker of bitcoin-mining machines.

## XRP And Ethereum

Two other cryptocurrencies that have become valuable and somewhat useful are XRP--which is used for inter-central bank clearing--and Ethereum, a smart contract global computer blockchain. However, a recent SEC [lawsuit](#) against the XRP crypto caused it to lose roughly  $\frac{2}{3}$  of its value. The lawsuit came as Hinman left to return to Simpson Thatcher, which is a [member](#) of the Ethereum Alliance.

Investors and other adherents of cryptocurrencies may reflexively resist regulatory authority, but without some sort of robust federal governance of the market it will remain a niche offering used by a small cohort of investors.

What's more, the common use of cryptocurrencies to facilitate illicit transactions makes it problematic for governments across the globe: if it is impossible for them to rein in such actions, the [Biden Administration](#) may conclude

that it would be more prudent to try to end these altogether--a difficult or impossible task--or else encourage the Federal Reserve to issue a [competing digital currency](#). Introducing government competition to financial markets is a [modus operandi](#) for Obama-Biden technocrats.

Many investors in the cryptocurrency industry are already wary of federal regulatory authority, and the established players in financial markets have yet to fully embrace cryptocurrencies themselves. Anything done by regulators that enforces these prior notions--such as SEC regulations that could potentially be perceived as self-dealing--makes the task of bridging these divides even more difficult.

## **About the Author**

*Hassan Tyler is a former Legislative Assistant to Senator Joseph Lieberman and [an analyst for Capital Policy Analytics](#), a consulting firm in Washington, DC.*